Cumulative Table of Cases Connecticut Appellate Reports Volume 190

(Replaces Prior Cumulative Table)

Bank of America, N.A. v. Defelice (Memorandum Decision)	904 902 903 606
	140
Dissolution of marriage; foreign judgment; motion for relief; motion to reargue; whether trial court abused its discretion in denying motion for relief from certain order of California court on ground that defendant failed to timely seek relief under California law; whether trial court's finding that there was no extrinsic fraud was clearly erroneous; whether trial court properly calculated postjudgment interest on basis of entire arrearage owed by defendant.	
	901
Day v. Perkins Properties, LLC	33
Nuisance per se; whether trial court properly concluded as matter of law that defend- ants' operation of landscaping business in residential zone in violation of local zoning regulations constituted nuisance per se; whether violation of local ordi- nance was sufficient in itself to constitute nuisance per se.	
	449
Personal injury; claim that defendant city was liable under municipal defective highway statute (§ 13a-149) for damages plaintiff sustained in fall on sidewalk owned by city; whether trial court improperly admitted into evidence, under applicable statute (§ 52-174 [b]), certain medical records that had been written by plaintiff's primary care provider, who worked in veterans affairs hospital; claim that our Supreme Court previously had recognized standard for admissibility of medical records under § 52-174 (b) that requires only that plaintiff testify as to relevance of records and that records originated from hospital; whether medical records at issue should not have been admitted where, as here, author of records was prohibited, pursuant to applicable federal regulation (38 C.F.R. § 14.808), from providing any opinion or expert testimony in any forum and, thus, was unavailable for cross-examination; whether city was harmed by improper admission of medical records.	
	152
Product liability; whether trial court properly granted motion for summary judgment as to design defect and breach of warranty claims; whether expert testimony was required to establish that product was defective and that alleged defect caused plaintiff's injury; whether ordinary consumer expectation test was applicable such that jury would not need expert testimony; whether trial court properly rendered summary judgment as to failure to warn claim on basis of learned intermediary doctrine.	
Fisk v. Redding	99
Public nuisance; whether trial court abused its discretion in denying motion to set aside verdict; claim that jury's answers to special interrogatories in verdict form were inconsistent and could not be harmonized; claim that trial court erred in excluding evidence of subsequent remedial measures taken by defendant; whether	

evidence of remedial measures was inadmissible to prove defendant's liability	
for nuisance.	
Flagstar Bank, FSB v. Kepple	312
Foreclosure; claim that plaintiff lacked standing to commence foreclosure action; whether defendants failed to rebut presumption that plaintiff, as holder of note, was rightful owner of underlying debt and, therefore, had standing to commence	
foreclosure action; whether statement by trial court at hearing constituted finding	
of fact. Hilario Truck Center, LLC v. Kohn	443
Contracts; third-party beneficiary; whether plaintiff towing company that provided	440
towing services to defendant insured motorist had standing as third-party benefi-	
ciary to bring direct breach of contract action against defendant insurance com- pany that provided automobile liability coverage to motorist; whether plaintiff met its burden of demonstrating that trial court committed error by granting motion to dismiss.	
In re Anaishaly C	667
Termination of parental rights; whether there was insufficient evidence for trial court to find by clear and convincing evidence that respondent parents had each failed to achieve degree of personal rehabilitation as would encourage belief that, within reasonable time, they could assume responsible position in lives of children; claim that there was no evidence that respondents' use of marijuana affected their ability to parent, and that because law concerning criminalization of marijuana had changed, that change had to be reflected in law concerning child protection; claim that there was insufficient evidence for trial court to conclude that respondents had failed to rehabilitate on basis of their problems with domestic violence; claim that respondents' housing situation did not support trial court's ultimate conclusion that they had failed to rehabilitate; claim that trial court's conclusion that termination of respondents' parental rights was in best interests of children was improper where, as here, court found, inter alia, that respondents had made progress in their rehabilitation and that they had	
strong bond with children. In re Elizabeth B. (Memorandum Decision)	902
In re Natalia M	583
Termination of parental rights; mootness; claim that trial court improperly concluded that Department of Children and Families had made reasonable efforts at reunification pursuant to statute (§ 17a-112 [j] [1]); failure of respondent father to challenge trial court's finding that he was unable or unwilling to benefit from reunification efforts, which was separate independent basis for upholding trial court's determination that requirements of § 17a-112 (j) (1) had been satisfied; whether there was practical relief that could be afforded to father; whether appeal was moot.	505
In re Probate Appeal of Knott	56
Probate appeal; whether trial court properly dismissed probate appeal as untimely on ground that substitute plaintiff did not appeal within time limits set by applicable statute (§ 45a-186 [a]); whether time limits for filing probate appeal were tolled by filing of application for waiver of fees pursuant to applicable statute (§ 45a-186c [b]).	
Jackson v . Commissioner of Correction (Memorandum Decision)	901
Jordan v. Commissioner of Correction	557
Kaminski v. Poirot	214
Legal malpractice; whether trial court properly granted motion for summary judg- ment; whether trial court properly determined that action was commenced beyond three year statute of limitations (§ 52-577) applicable to tort claims.	
Lavy v . Lavy	186
Dissolution of marriage; whether trial court properly determined that plaintiff's failure to disclose certain assets on financial affidavit constituted material omissions that violated parties' separation agreement, which had been incorporated into dissolution indament; claim that plaintiff's failure to disclose assets on	

financial affidavit was not material omission because defendant knew about them at time of dissolution judgment; claim that trial court inflated significance of omissions by comparing their value to total value of disclosed assets in same asset category; claim that trial court's discussion of relative value of assets rendered its determination that nondisclosures were material omissions legally or logically incorrect or unsupported by record; claim that trial court's finding that plaintiff knew about undisclosed bank account at time of dissolution judgment was clearly erroneous; whether trial court properly awarded defendant statutory (§ 37-3a [a]) prejudgment interest, where defendant raised claim for prejudgment interest in posthearing brief; claim that plaintiff was denied reasonable notice and opportunity to present defense regarding defendant's request for repudgment interest; whether trial court violated rule of practice (§ 61-11) that provides for automatic appellate stay by awarding defendant postjudgment interest after plaintiff filed appeal; claim that § 37-3a was part of mechanism for statutory (§ 52-350f) enforcement of money judgment that is limited to execution or foreclosure of lien.

or joreciosure of tien.	
Lewis v. Alves	580
Miller v . Maurer (Memorandum Decision)	904
O'Brien-Kelley, Ltd. v. Goshen	420
Oudheusden v. Oudheusden	169
Dissolution of marriage; claim that trial court improperly double counted certain marital asset for purposes of property division and spousal support awards; claim that trial court abused its discretion in failing to make equitable orders in division of marital estate; whether trial court deprived defendant of means with which to comply with orders; whether trial court's award of nonmodifiable, lifetime alimony to plaintiff was supported by facts in evidence; whether plaintiff's testimony at trial precluded conclusion that her physical condition and age rendered her permanently incapable of earning any income from any type of employment.	
Outing v. Commissioner of Correction	510
Patrowicz v. Peloquin	124
request for continuance in order to subpoena witness; whether trial court commit-	

ted reversible error by permitting material variance between amount of damages alleged in complaint and amount pursued at trial without requiring plaintiffs to file amended complaint; claim challenging trial court's determinations with

respect to statute of frauds defense.

Rauser v. Pitney Bowes, Inc.	541
Workers' compensation; appeal from decision of Compensation Review Board affirming decision of Workers' Compensation Commissioner dismissing claim	
for workers' compensation benefits; whether evidence amply supported commis- sioner's determination that for several hours plaintiff was engaged in substantial	
deviation from his employment activities; claim that commissioner failed to set forth factual determination as to whether, at time plaintiff sustained subject	
injuries, he was on direct route of his business travel; whether plaintiff failed	
to demonstrate that either commissioner or board misapplied law in evaluating	
claim for benefits; credibility determinations.	0.00
Reiner v. Reiner	268
following hearing pursuant to Audubon Parking Associates Ltd. Partnership v. Barclay & Stubbs, Inc. (225 Conn. 804), improperly denied motion to enforce settlement agreement; whether trial court incorrectly concluded that settlement agreement was clear and unambiguous with respect to method for calculating buyout price of plaintiff's interests in certain real properties; whether settlement agreement that is not clear and unambiguous can be enforced summarily pursuant to Audubon Parking Associates Ltd. Partnership.	
Roger R. v. Commissioner of Correction (Memorandum Decision)	902
Rosenthal Law Firm, LLC v. Cohen	284
Contracts; attorney's fees; discussion of Jones v. Ippoliti (52 Conn. App. 199); claim that trial court erred in concluding that plaintiff, as self-represented law firm,	
was precluded from recovering attorney's fees from defendant under parties'	
retainer agreement; claim that portion of Jones on which trial court relied in	
reaching its conclusion was dictum and, therefore, was improperly treated as binding precedent by trial court; whether this court could overrule precedent	
established by previous panel in Jones.	
St. Denis-Lima v. St. Denis	296
Dissolution of marriage; whether trial court abused its discretion in ruling on motion to dismiss dissolution action without first holding evidentiary hearing;	
claim that certified and officially translated Brazilian document that plaintiff submitted to trial court established disputed jurisdictional fact that required	
evidentiary hearing on motion to dismiss; whether trial court's determination	
that there was final judgment of dissolution in Brazil was clearly erroneous; whether trial court abused its discretion in affording comity to dissolution judg-	
ment rendered by Brazilian court; claim that Brazilian judgment was contrary	
to public policy of Connecticut.	
Santa Energy Corp. v. Santa (Memorandum Decision)	901 63
Debt collection; action to collect debt, pursuant to statute (§ 46b-37 [b]), for medical	03
services that plaintiff hospital rendered to defendants' minor child; special	
defenses; accord and satisfaction; reviewability of claims; whether record sup-	
ported findings of attorney trial referee and trial court that defendants were indebted to plaintiff and that they exhibited bad faith throughout litigation;	
credibility of witnesses; whether referee acted within his authority to find by	
preponderance of evidence that defendants were untruthful; whether trial court's	
decision to award plaintiff attorney's fees was legally and logically correct. State v. Abdus-Sabur	589
Murder; criminal possession of firearm; sufficiency of evidence; whether evidence	909
was sufficient to prove specific intent element necessary to support conviction	
of murder; whether trial court properly denied request to instruct jury on third-	
party culpability; whether defendant established direct connection between third party and offense with which defendant was charged; reviewability of claim that	
trial court improperly admitted evidence of uncharged misconduct of defendant's	
gang affiliation; whether defendant addressed in appellate brief harmfulness of	
allegedly improper admission of evidence; whether prejudicial effect is equivalent to harmful error or must be briefed separately.	
State v. Crespo	639
Violation of probation; whether trial court improperly found defendant in violation of	
probation; reviewability of unpreserved claim that trial court violated defendant's right to confrontation when it overruled objection to probation officer's testimony	
without making finding of good cause; claim that trial court improperly denied	
motion to dismiss violation of probation charge because certain condition of	
probation imposed by Office of Adult Probation pursuant to statute (§ 53a-30	

[b]) was inconsistent with or contradictory to certain condition of probation imposed by sentencing court; reviewability of unpreserved claim that trial court improperly failed to hold evidentiary hearing on veracity of certain allegations in probation officer's arrest warrant affidavit; whether trial court abused its discretion in denying motion for judicial disqualification; claim that certain of trial court's evidentiary rulings and colloquy with defense counsel regarding filing of motion to dismiss would lead reasonable defendant to believe that trial court would be biased toward defendant. State v. Dojnia	353
Assault of disabled person in second degree; unpreserved claim that statute (§ 53a-60b [a] [1]) prohibiting assault of disabled person in second degree is unconstitutionally vague as applied to defendant's violent conduct toward victim; whether statute (§ 1-1f [b]) that defines physical disability is ambiguous as to whether fibromyalgia constitutes physical disability; claim that state bore burden of proving beyond reasonable doubt that victim's physical disability was caused by any particular illness or injury and that diagnosis was medically accurate; whether evidence was sufficient to prove that victim had diagnosis of fibromyalgia; whether diagnosis of fibromyalgia satisfied physical disability requirement of § 53a-60b (a) (1); whether evidence was sufficient to prove that victim suffered from physical disability for purposes of § 53a-60b (a) (1); whether defendant was deprived of right to fair trial as result of prosecutor's comment during closing argument. State v. Fernandes (See State v. Sanchez)	466
State v. Irizarry. Assault in second degree; breach of peace in second degree; whether evidence was sufficient to support conviction of assault in second degree in violation of statute (§ 53a-60 [a] [1]); claim that state did not establish that defendant caused victim serious physical injury as defined by statute (§ 53a-3 [4]); claim that improper statement by prosecutor during closing argument to jury deprived defendant of constitutional right to fair trial; harmfulness of improper statement by prosecutor during closing argument to jury.	40
State v. Marcus H	332
State v. Nalewajk . Possession of narcotics with intent to sell by person who is not drug-dependent; failure to appear in first degree; motion to correct illegal sentence; mootness; whether defendant's death during pendency of appeal rendered appeal moot.	462
State v. Ramon A. G	483
State v. Riley	1

for recusal independent of that provided by § 51-183c; claim that rule 2.11 (a) (1) of Code of Judicial Conduct required recusal on ground that resentencing court was biased in favor of justifying defendant's initial sentence; claim that defendant's initial sentence had anchoring effect that prevented resentencing court from approaching resentencing hearing with fully open mind that would allow it to fully consider requirement under Miller v. Alabama (567 U.S. 460) that it give mitigating weight to defendant's youth and its hallmark features when considering whether to impose functional equivalent of life imprisonment without parole; claim that resentencing court considered seventy year sentence to be inappropriate but nevertheless imposed it because defendant would be eligible for parole pursuant to legislative amendments (P.A. 15-84) to statutes applicable to sentencing of children convicted of certain felonies (§ 54-91g) and parole eligibility (§ 54-125a); claim that resentencing court was required under Supreme Court's reversal of defendant's initial sentence and remand order to find that defendant was incorrigible, irreparably corrupt or irretrievably depraved before resentencing him to life without possibility of parole; whether discussion by Supreme Court in decision reversing defendant's initial sentence about presumption against life sentence without parole that must be overcome by evidence of unusual circumstances was rendered inapplicable by enactment of P.A. 15-84; claim that Miller, Supreme Court's decision reversing defendant's sentence and P.A. 15-84 limited resentencing court's discretion by creating presumption against imposition of life sentence that could be imposed only after finding that juvenile was permanently incorrigible, irreparably corrupt or irretrievable depraved. 466 466 Sale of narcotics by person who is not drug-dependent; possession of narcotics with intent to sell by person who is not drug-dependent; whether trial court improperly dismissed motions to correct illegal sentence for lack of subject matter jurisdiction; claim that lack of drug dependency by defendants was element that state was required to plead and prove beyond reasonable doubt pursuant to statute ([Rev. to 2013] § 21a-278 [b]); whether drug dependency is affirmative defense that must be proven by defendant; whether, at time trial court dismissed motions to correct, defendants raised colorable claims; whether, in light of Supreme Court's decision in State v. Evans (329 Conn. 770), defendants' motions to correct no longer presented colorable claims of illegal sentence. 466 Conspiracy to commit robbery in first degree; robbery in first degree; kidnapping in first degree; whether trial court properly dismissed motion to correct illegal sentence for lack of subject matter jurisdiction where motion attacked validity of guilty pleas, via claim of insufficiency of evidence, and did not challenge legality of sentence or manner in which sentence was imposed. Turchiano v. Roadmaster Paving & Sealing, LLC (Memorandum Decision) 902 221 Foreclosure; motion for approval of committee sale; annulment of automatic stay by Bankruptcy Court; claim that trial court's approval of sale was void ab initio because it exceeded scope of Bankruptcy Court's order annulling bankruptcy stay;

because exclusion applied only to finished product, not to process implemented

whether Bankruptcy Court's order annulling stay was intended only to permit committee to recover fees and expenses; whether trial court abused its discretion in granting committee's motion for approval of sale; reviewability of claim that certain irregularities with motion for approval of sale prevented defendants from

by subcontractor who damaged windows; claim that renovation endorsement would have been rendered meaningless if exclusion applied; whether trial court incorrectly interpreted resulting loss clause as entitling cross claim plaintiffs to coverage. Villafane v. Commissioner of Correction	566 398
by affirming finding of Workers' Compensation Commissioner that plaintiff's giant cell myocarditis constituted heart disease under \$ 7-433c; credibility of wit-	
nesses. Wells Fargo Bank, N.A. v. Fitzpatrick	231
trial court's reduction in interest that accrued while first of two foreclosure actions was pending equitably addressed any delay in first foreclosure action. Woodbury-Correa v. Reflexite Corp	623
by filing form 43. Zaniewski v. Zaniewski	386